

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 8372 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE KUNDAN SINGH

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
 2. To be referred to the Reporter or not?
 3. Whether Their Lordships wish to see the fair copy of the judgement?
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge?

V N DESAI

Versus

STATE OF GUJARAT

Appearance:

MR JV BHAIRAVIA for Petitioner
MR S.T.Mehta, ASSTT. Government Pleader for the Respondents.

CORAM : MR.JUSTICE KUNDAN SINGH

Date of decision: 07/09/98

ORAL JUDGEMENT

This is a petition for a direction to the respondents for consideration of the petitioner's case for promotion to the post of Gujarat Education Service Class II and that prayer was subsequently amended for a direction to consider the case of the petitioner to the post of Gujarat Education Service Class II from the date

on which his junior Mr. K.L Dodia was promoted on the basis of his seniority with arrears of pay and other consequential benefits.

2. The petitioner was appointed as Technical Assistant in class III in the year 1966 under the control of the respondent no. 2. He passed departmental examination in the year 1968 and he was placed in the seniority list at serial no. 363 while other two persons Mr. K L. Dodia and Mr. K.C.Kakkad were placed at serial nos.1015 and 1513 in the seniority list and they were most junior to the petitioner. Mr. K L. Dodia who was at serial no.1015 in the seniority was promoted by an order dated 23.4.1990 of the Government with effect from 1979, the date of passing departmental examination on the basis of an order dated 28th July, 1989 of the learned Civil Judge (S.D.), Porbandar. Similarly, Mr. M. K. Kakkad who was also at serial no.1513 in the seniority list was promoted by the order dated 30.10.95 with effect from 1979 from the date of passing of the departmental examination, on the basis of the order dated 6.12.1989 passed by the learned Civil Judge (S.D.), Porbandar. The petitioner has been promoted to the post of class II by an order dated 31.3.93 though he is also entitled to for his promotion in class II at least from the year 1979 when other juniors had been promoted with effect from 1979. In case he is promoted from 1968 or 1979 to class II, he must have been promoted to class I by that time. As such, the grievance of the petitioner is that he should be given promotion from the date of passing his departmental examination in 1968 or from the date of passing examination of other two junior most persons in the year 1979 and then the petitioner would be entitled for promotion to the service of class I.

6. This Court has no material to ascertain as to on what basis the other juniors have been granted promotion with effect from 1979 to class II services. At the most, the petitioner can represent his case before the respondent no.2 setting aside his grievances and claims. It is difficult for this Court to direct the respondents for promotion of the petitioner to the post of Gujarat Education Service class I in absence of other material on record or any relevant evidence to that effect.

7. The learned counsel for the petitioner makes a statement that he has filed a representation before appropriate authority. However, he has not received any order regarding decision of the authority on that representation. In the facts and circumstances of

the case, the petition is disposed of with a liberty to the petitioner to file a fresh representation before appropriate authority i.e.respondent no. 2 within a period of two weeks from today. In case such a representation is made by the petitioner within a stipulated time, the respondent no. 2 shall consider and decide the same on merits and in accordance with law within a period of four months from the date of receipt thereof. The petition is disposed of accordingly with no order as to costs. Direct service is permitted.

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